

**HUMAN SERVICES DEPARTMENT[441]**

**Adopted and Filed**

Pursuant to the authority of Iowa Code section 249A.7, the Department of Human Services amends Chapter 78, “Amount, Duration and Scope of Medical and Remedial Services,” Iowa Administrative Code.

These amendments revise Medicaid home- and community-based services (HCBS) waiver rules regarding the consumer choices option (CCO). Under this option, the cost of certain services that a member needs is rolled into an individual budget that the member manages with the help of an independent support broker. The member may hire providers that are not enrolled with Iowa Medicaid. Bills are paid through a participating financial institution rather than through the Iowa Medicaid Enterprise. CCO is offered under the AIDS/HIV, brain injury, elderly, intellectual disabilities (formerly mental retardation), ill and handicapped, and physical disability waivers.

The amendments change waiver rules to conform to federal guidance on the allowable uses of waiver funds. The amendments:

- Clarify that services, supports, and items purchased with a CCO individual budget must be directly related to a personal goal or assessed need of the member as identified in the member’s service plan.
- Specify that respite services, specialized medical equipment, assistive devices, and supported employment services to obtain a job are not subject to a utilization factor in determining the amount of an individual budget.
- Establish criteria for the purchase of individual-directed goods and services and add a list of items that cannot be purchased using the individual budget.
- Provide that amounts budgeted for home and vehicle modifications, specialized medical equipment, or assistive devices shall not be used for anything other than the specific item or service and shall not include the costs of the financial management services or the independent support broker.
- Identify criteria for the development and use of a savings plan within the individual budget. The amendments provide that, except for respite services, savings from monthly amounts allocated to other waiver services that are not used may not be added to the savings plan, but shall revert to the Department at the end of each month. Likewise, unexpended funds remaining in the savings plan at the end of the calendar year shall revert to the Department.
- Clarify that the individual budget must be approved before purchases are made.
- Require criminal record checks on all CCO providers.
- Clarify the reimbursement rates that can be negotiated between a member and the member’s employees.
- Change the word “consumer” to “member” where applicable.

Notice of Intended Action on these amendments was published in the Iowa Administrative Bulletin on June 2, 2010, as **ARC 8832B**. The Department also held a public hearing for the purpose of receiving comments on the proposed amendments, which was attended by two persons.

The Department received three written comments on the Notice of Intended Action. The comments concerned restrictions on hiring employees, allocation of funds for major purchases, clarification of the process for saving for individual-directed purchases, avenues for dispute of Department decisions, and the need for a procedures manual for independent support brokers.

In response to these comments, the Department has made the following changes in the amendments published under Notice of Intended Action:

- In paragraphs 78.34(13)“c,” 78.37(16)“c,” 78.38(9)“c,” 78.41(15)“c,” 78.43(15)“c,” and 78.46(6)“c,” the cross-reference has been changed from “441—subrule 77.30(14)” to “441—Chapter 119.”
- The phrase “pursuant to 441—Chapter 119” has been added to subparagraphs 78.34(13)“f”(5), 78.37(16)“f”(5), 78.38(9)“f”(5), 78.41(15)“f”(5), 78.43(15)“f”(5), and 78.46(6)“f”(5).

Chapter 119 explains the process for record check evaluations for health care programs, including Department evaluations of persons with criminal or abuse records to determine whether the person's record would prohibit the person's employment for the particular position sought.

These amendments do not provide for waivers in specified situations. Requests for the waiver of any rule may be submitted under the Department's general rule on exceptions at 441—1.8(17A,217).

The Council on Human Services adopted these amendments on August 11, 2010.

These amendments are intended to implement Iowa Code section 249A.4.

These amendments shall become effective on November 1, 2010.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [78.34(13), 78.37(16), 78.38(9), 78.41(15), 78.43(15), 78.46(6)] is being omitted. With the exception of the changes noted above, these amendments are identical to those published under Notice as **ARC 8832B**, IAB 6/2/10.

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[For replacement pages for IAC, see IAC Supplement 9/8/10.]